

**KERALA REAL ESTATE REGULATORY AUTHORITY
THIRUVANANTHAPURAM**

Complaint No.70/2022

Present: Smt. Preetha P. Menon, Member
Dr. B. Sandhya, Member.

Dated 7th February, 2025

Complainant

IHDC HASHIS TECHNOVALLEY
TOWERS Owners Association,
(Reg No. TVM/TC/260/2021)
Karyavattom, Trivandrum.
Represented by its Secretary Jayakrishnan. T.

[By Adv. Gokul Babu, Adv. Keshavraj Nair, Adv. Parvathy
Nair, Adv. Gaadha Suresh, Adv. Arun M.V, Adv. Aswin.S.]

Respondents

1. IHDC LLP,
House No.39/3450,
Ground Floor, Kizhakkemadom,
Manikkath Cross Road, M.G.Road P.O,
Cochin-682016.
Represented by its Managing Partner, Letha R Nair.
2. Latha R Nair,
Managing Partner,
IHDC LLP, T.R Residency,



Nettippadam Road,
Ernakulam -6822016.

3. Abdul Hashim,
Hashirah Manzil,
Mohanapuram, Koithoorkonam P.O,
Andoorkonam village, Trivandrum-695584.
4. Razanath Abdul Hashim
Hashirah Manzil,
Mohanapuram, Koithoorkonam P.O,
Andoorkonam village, Trivandrum-695584.

[By Adv. Riji Rajendran & Adv. Mitha Surendran Adv. Haritha Hariharan]

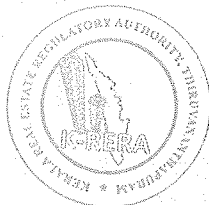
The above Complaint came up for virtual hearing on 05.12.2024. Both the Counsels for the Complainant and the Respondents appeared.

ORDER

1. The Complainant is an association of Allottees of the project named 'IHDC Hashys' developed by the Respondents located at Thiruvananthapuram district. The said project is registered with the Authority vide Registration No. K-RERA/PRJ/TVM/018/2022, under Section 3 of the Real Estate (Regulation and Development) Act, 2016 [herein after referred to as "the Act, 2016"].



During the hearing on 24.09.2022, the Counsel for the Respondents have submitted that they have completed all the works as promised as per the agreement. But the representative of Complainant Association as well as their Counsel strongly objected and submitted that none of the pending works has been completed by the Respondents/Promoters, though they had agreed in the meeting convened on 11.06.2022 as per the direction of the Authority. The Complainants alleged that even basic amenities were not provided in the project. The Authority has noticed that the Respondents/ Promoters had already uploaded Form 6 in the web- portal of the Authority stating that the project has been completed in all respects as promised to the allottees as per the terms of the agreements. Hence the Authority found it necessary to get the project site inspected and obtain a detailed report with respect to status of works and deputed Two technical officers of the Authority to inspect the project and submit detailed report. Thereafter two technical officers of the Authority visited the project site on 07.10.2022 and submitted a report and during the site inspection it was pointed out by the representatives of the Association of allottees that there are no water connections in the flats, play area and parking area are not completed, electric connection for common area is not provided, STP is not functioning properly, roof top finishing and water proof works are not completed, leakage in the water tank etc. The findings of the officers as per the report are (1) the roof top is not



2. The Complaint was filed on 24.02.2024 and the reliefs sought are (1) to direct the Respondents to complete the work as per the specifications mentioned in the agreement for construction in accordance with governing rules (2) to provide basic amenities as promised in accordance with the Kerala Municipality Building Rules (3) to permit the Complainant association to approach the adjudicating Authority for compensation under the Act.

3. The Respondents 1 & 2 have filed detailed counter Affidavit denying the allegations and contentions in the Complaint and stating that the Complainant is not entitled to get any reliefs.

4. After initial hearing the Respondents were directed vide interim order dated 11.05.2022 to convene a meeting with the Association of Allottees of the project named "IHDC Hashys" and discuss in detail regarding the issues and arrive at a settlement before the next posting date and to file an affidavit regarding the result of the meeting, also directed to provide drinking water facility to the Allottees uninterruptedly as promised by them during the hearing. In compliance of the above order the Respondents have the filed an affidavit dated 4.07.2022 stating that they have convened a meeting with allottees, Association and land owners on 11.06.2022 at 10.15 AM and discussed in detail the matter in issue. The Complainant has not filed any objection to the affidavit filed by the Respondents.



finished, which causes leakage and dampness in the units in the 4th floor, (2) certain areas of the car parking in the basement floor are not properly finished (3) the debris are stacked in the rear side of the building (4) construction works of security cabin, association room and gymnasium are going on. During the inspection, the association members informed that these works are being undertaken by the owner's association and the representative of the land owner informed that their flats are not yet completed. The representative of the Respondent/Promoter informed the officers that the fixtures are arrived and the works are in progress.

5. On 18.10.2022, this Authority after hearing the parties and perusing the documents placed on records as Exhibits A1 to A10 marked on the side of Complainants and Exhibits B1 to B4 marked on the side of the Respondents 1 and 2 and also the report of inspection submitted by the officers of the Authority was marked as Exhibit X1 found that the Respondents/Promoters have failed to complete the project in all respects as promised to the allottees and to complete execution of sale deeds in favour of all the allottees and to handover the common area and documents related to the whole project to the Complainant association. The Authority had decided to grant 2 months' time to complete all these works and issued directions as follows: -

“1) The Respondents No. 1 & 2 shall complete the entire works of the project 'IHDC Hashys' with all the mandatory



sanctions/approvals and common amenities/ facilities in accordance with the terms of the agreements executed with the allottees and shall handover formally, the common areas and all the documents pertaining to the project including drawings, title deeds, sanctions and approvals, etc. obtained for the project to the Complainant association on or before 14.01.2023, failing which the Respondents No. 1&2 shall be liable to pay penalty as provided under Section 63 of the Real Estate (Regulation & Development) Act, 2016.

2) The Complainants may approach the Adjudicating Officer of the Authority for eligible compensation as per law”.

6. The Respondents challenged the above order in appeal before the Hon’ble Kerala Real Estate Appellate Tribunal [herein after referred to as “the Appellate Tribunal”] and the Appellate Tribunal as per order No. REFA No 25/2023 dated 03.01.2024 has observed that compensation on various grounds can be sought by the individual allottees under the Act and if there is any defect in service provided by the promoter or if the promoter caused any sort of inconvenience or legal injury to the individual allottees they can make claim before the Adjudicating officer and such rights are not available to the Association of allottees. The Claim of Association must be confined to common amenities and facilities. A direction to complete the construction process, or to provide the facilities or services in terms of the agreement for sale, or agreement for construction, cannot be enforced by the



Association. The Appellate Tribunal expressed concern regarding the legal status or locus standi of the Association of Allottees to claim reliefs which only the allottees can claim under the Act and directed the Authority to examine this Aspect. The Authority was also directed to examine the second relief sought by the Association. The Appellate Tribunal has set aside the order dated 18.10.2022 of this Authority and remanded the matter to this Authority for examination and decision afresh in accordance with law as indicated in the order within 3 months. Thereafter, in the initial hearing on 01.03.2024 after remanding the Complaint, the Complainant was not present, and in the next hearing on 04.04.2024, a new Counsel appeared for the Complainant and sought time for filing vakalath and hearing. When the case came up for hearing on 07.06.2024, Counsel for the Complainant filed vakalath and sought time to argue the matter and granted. When the Complaint came up on 12.08.2024, the matter was partially heard and the Authority decided for a direct hearing of parties to dispose the Complaint and posted to 03.09.2024. On that day also, the Counsel for Complainant sought adjournment. Thus, enlargement of time from the Appellate Tribunal was requested and two months' time from 16.10.2024 was granted to dispose the Complaint.

7. During the hearing on 05.12.2024, the Counsel for the Complainants submitted that they are withdrawing the




Complaint and a memo will be filed in this respect. The Counsel for the Respondents was also present. However, the memo from the Counsel for the Complainant was received this day only.

8. In the circumstances above, the Authority dismisses the Complaint as withdrawn with liberty to file fresh Complaint through the Association of Allottees or Individual Allottees.

Sd/-
Preetha P. Menon
Member

Sd/-
Dr. B. Sandhya
Member

True Copy/Forwarded By/Order/


Secretary (Legal)